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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)	
Office Action Summary		10/573,536	LEE ET AL.	
		Examiner	Art Unit	
		GREG BENGZON	2444	
Period fo	The MAILING DATE of this communication a or Reply	ppears on the cover sheet with the c	correspondence address	
A SHO WHIC - Exter after - If NO - Failur Any r	ORTENED STATUTORY PERIOD FOR REFERENCE IS LONGER, FROM THE MAILING asions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. period for reply is specified above, the maximum statutory perior to reply within the set or extended period for reply will, by state the perior of the perior of the control of the main and patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION 1.136(a). In no event, however, may a reply be tired will apply and will expire SIX (6) MONTHS from tute, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).	
Status				
2a)⊠	Responsive to communication(s) filed on <u>24</u> This action is FINAL . 2b) TI Since this application is in condition for allow closed in accordance with the practice unde	nis action is non-final. vance except for formal matters, pro		
Dispositi	on of Claims			
5) 6) 7) 8)	Claim(s) 32-67 is/are pending in the applicate 4a) Of the above claim(s) is/are withd Claim(s) is/are allowed. Claim(s) 32-67 is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and	rawn from consideration.		
Applicati	on Papers			
10)	The specification is objected to by the Exami The drawing(s) filed on is/are: a) _ a Applicant may not request that any objection to the Replacement drawing sheet(s) including the corre The oath or declaration is objected to by the	ccepted or b) objected to by the needrawing(s) be held in abeyance. See ection is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority u	ınder 35 U.S.C. § 119			
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 				
	e of References Cited (PTO-892)	4) 🔲 Interview Summary		
3) 🔲 Inforr	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	Paper No(s)/Mail Date of Informal F 6) Other:		

DETAILED ACTION

This application has been examined. Claims 32-67 are pending.

Making Final

Applicant's arguments filed 02/24/2010 have been fully considered but they are not persuasive.

The Examiner notes Claims 50-67 are now amended to indicate a <u>method</u> claim.

The claim amendments regarding -- 'a processor and a memory' -- introduce new issues as shown below.

The claim amendments regarding -- 'a providing unit for providing the determined contents to the user terminal <u>without receiving a request from the user terminal and</u>

<u>without any searching for the determined contents</u> '-- do not overcome the disclosure by the prior art as applied in the prior Office Action, as shown below.

The Examiner presents new grounds for rejection based on USC 101 and USC 112 as necessitated by the claim amendments.

The Examiner is maintaining the rejection(s) using the same grounds for rejection based on USC 103 and is thus making this action FINAL.

Priority

This application claims benefits of priority from Foreign Application 10-2003-0067204 (KOREA) filed September 27, 2003.

The effective date of the claims described in this application is September 27, 2003.

Response to Arguments

Applicant's arguments filed 02/24/2010 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) [in italics]:

... independent claims 32 and 50 have been amended to include a --processor-and a --memory-, which the examiner apparently clearly understand as being physical hardware devices...

The Examiner respectfully disagrees with the Applicant.

The Examiner does not believe that the prosecution history of this application has provided a definition of *a --processor-- and a --memory-* as hardware devices.

Furthermore the Applicant Specification also does not provide a definition of *a --processor-- and a --memory-* as hardware devices.

With respect to memory, upon inspection of the Applicant Specifications Page 34 the Examiner interprets the *computer-readable medium* being possibly embodied by, but is not limited to, RAM, ROM, etc. Thus applying the broadest reasonable interpretation in light of the specification and taking into account the meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the

networking art, the claim as a whole covers <u>both transitory and non-transitory media</u> including those entirely of transmission mediums such carrier waves.

The Applicant presents the following argument(s) [in italics]:

... the specification...page 34, lines 25-30...disclosed that the presently claimed invention can executed by a computer program (i.e. processor and memory). Also, we believe support for this amendment in inherent from the description in the specification for determining and providing content...

The Examiner respectfully disagrees with the Applicant.

The Examiner respectfully suggests claim language indicating a specific system component (e.g. 'service controller', 'service analyzer') from Applicant Specification Page 7 Lines 25 thru Page 8 Lines 30 for embodying claimed processor.

Furthermore, upon identification of the specific system component, the Applicant is requested to make a positive statement indicating said component as inherently including a hardware component such as a processor for executing the computer program.

The Applicant presents the following argument(s) [in italics]:

... claims have been amended to generate the content for a respective user terminal without receiving a request and without any need for searching for the

determined content for providing the respective content matched to the respective terminal.

Lamkin must receive a "request" for content from a "terminal", then "search" ..., and finally "collect" the plurality of entities and collection metadata before analyzing the condition of the usage environment of the user terminal from the packaged metadata. terminal.

The Examiner respectfully disagrees with the Applicant. The Examiner notes that Applicant Specification Page 4 Lines 30-35 and Page 8 Lines 20-35 indicate that a request for content is received before analyzing/obtaining content. The claimed invention requires user input and knowledge of the user terminals before analyzing/obtaining the content. Thus the Examiner does not detect any distinction between Lamkin and the claimed invention because they both require user input and knowledge of the user terminals before analyzing/obtaining the content.

The Examiner respectfully requests clarification and the pertinent portions of the Applicant Specification regarding wherein the *present invention does not require the request, search.*

Further while Lamkin disclosed an embodiment wherein Lamkin receives a request for content, Lamkin is not limited to this embodiment.

Lamkin disclosed (re. Claim 32) providing the desired content to the user terminal 'without receiving a request from the user terminal and without any need for searching for the determined content'. (Lamkin-Paragraph 203,Paragraph 240 searches for content using automated agent NCAA and stores the collection of content, Paragraph 518, based on a set of presentation rules or user profiles, Paragraph 35. Since Lamkin stores the presentation rules or user profiles Lamkin is able to collect content without a specific request from a user. Further since Lamkin stores the collection of content Lamkin is able to repeatedly provide the stored content without having to search.

Thus Lamkin disclosed providing the desired content to the user terminal 'without receiving a request from the user terminal and without any need for searching for the determined content'.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 32, 50 recite a processor.

The Examiner cannot detect any description of a processor in the Applicant Specification.

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The claim or claims must conform to the invention as set forth in the remainder of the specification and the <u>terms and phrases used in the claims must find clear support</u> <u>or antecedent basis in the description</u> so that the meaning of the terms in the claims may be ascertainable by reference to the description.

The Examiner suggests claim language indicating a specific system component (e.g. 'service controller', 'service analyzer') from Applicant Specification Page 7 Lines 25 thru Page 8 Lines 30 for embodying claimed *processor*.

Claims 32, 50 recite a limitation 'without receiving a request from the user terminal and without any need for searching for the determined content'.

The Examiner cannot detect any description of an embodiment wherein desired content is provided 'without receiving a request from the user terminal and without any need for searching for the determined content' in the Applicant Specification.

The claim or claims must conform to the invention as set forth in the remainder of the specification and the <u>terms and phrases used in the claims must find clear support</u> <u>or antecedent basis in the description</u> so that the meaning of the terms in the claims may be ascertainable by reference to the description.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 50-67 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

Claims 50 recites a limitation regarding 'a method for generating package metadata'.

The Examiner notes that the claims describe the intended use of the component and relational metadata but do not indicate any method step(s) for manipulating any machine and thus producing any functional and tangible result on said machine.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32-49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 32-49 are directed towards a system comprising a processor and memory.

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The Examiner notes that the lack of a specific embodiment for 'a processor' precludes an interpretation of said processor as a hardware device. The Examiner is unable to detect any description of a processor in the Applicant Specification. Thus applying the broadest reasonable interpretation in light of the specification and taking into account the meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the networking art, the claim as a whole covers both hardware and software embodiments. Software comprising computer-executable instructions are non-statutory subject matter because they do not fall into any of the categories of statutory subject matter.

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With respect to the memory, upon inspection of the Applicant Specifications

Page 34 the Examiner interprets the *memory for storing* being possibly embodied by,

<u>but is not limited to</u>, RAM, ROM, etc. Thus applying the broadest reasonable

interpretation in light of the specification and taking into account the meaning of the

words in their ordinary usage as they would be understood by one of ordinary skill in the

networking art, the claim as a whole covers <u>both transitory and non-transitory media</u>

including those entirely of transmission mediums such carrier waves. The Examiner

notes that transmission mediums embodying computer-executable instructions are non
statutory subject matter because they do not fall into any of the categories of statutory

subject matter.

The Examiner notes that where carrier waves are concerned, the transmission medium is an embodiment of a data signal. Absent some physical context, a signal per se is an abstract idea in much the same way that a mathematical algorithm without context is an abstract idea.

The claims may be amended by changing 'memory for storing' to -- '<u>non</u> transitory computer readable recording medium' -- thus excluding that portion of the scope covering transitory signals. The scope of the disclosure given the state-of-the-art covers both transitory and non-transitory media, and this amendment would limit the claims to an eligible (i.e. non-transitory) embodiment.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 50-67 rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility and thus is non-statutory subject matter.

Claims 50-67 recite a limitation regarding 'a method for generating package metadata'.

The Examiner notes that the claims describe a processor and memory but do not indicate any method step(s) for manipulating any machine and thus producing any functional and tangible result on said machine.

The Examiner notes that the claims describe the intended use of the component and relational metadata but do not indicate any method step(s) for manipulating any machine and thus producing any functional and tangible result on said machine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 32-43,49-61,67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamkin (US Publication 2004/0220926) further in view of Benitez (US Patent 7185049).

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Lamkin disclosed (re. Claim 32) (new) a contents service providing system, the system comprising:

an analyzing unit for analyzing conditions of a usage environment of a user terminal based on package metadata and determining contents matched with the conditions; (Lamkin-Paragraph 165-Paragraph 167)

and

a providing unit for providing the determined contents to the user terminal, (Lamkin-Paragraph 155-Paragraph 167, 'collection of content') wherein the targeting condition metadata includes component metadata for describing attributes of the contents, relation metadata for describing temporal/spatial relation of the contents, (Lamkin-Paragraph 376) and targeting condition metadata for describing the conditions, wherein the <u>targeting condition metadata</u> (Lamkin-Paragraph 31,receive search parameter for collecting desired content,Paragraph 164, search criteria provided by the user for acquiring content) and is capable of <u>targeting</u> the contents to the user terminal and <u>the relation metadata enables to consume</u> (Lamkin-Paragraph 273,SMIL Timing provides attributes that can be used to specify an elements timing behavior) a variety of contents with the temporal/spatial relation in the user terminal. (Lamkin-Paragraph 116, presentation layout engine determines how and where on the presentation device the content will be displayed to the user)

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Lamkin disclosed a content manager to setup a graceful degradation of the presentation according the user input conditions. The collection of content 1150 also includes collection metadata. The collection metadata can include information about when along the timeline each of the entities will be displayed in relation to the other entities.

While Lamkin substantially disclosed the claimed invention Lamkin did not disclose (re. Claims 32) wherein the metadata includes relation metadata for describing temporal/spatial relation of the content. Lamkin did not disclose (re. Claims 41,59) wherein the temporal relation information includes MPEG-7 MDS TemporalRelation CS information; (re. Claim 42,60) wherein the spatial relation information includes MPEG-7 MDS BaseRelation CS information; (re. Claim 43,61) wherein the spatial relation information includes MPEG-7 MDS SpatialRelation CS information.

Benitez disclosed (re. Claims 32) wherein the metadata includes relation metadata for describing temporal/spatial relation of the content. (Benitez-Column 12 Lines 1-25)

Benitez disclosee (re. Claims 41,59) wherein the temporal relation information includes MPEG-7 MDS TemporalRelation CS information; (Benitez-Column 12 Lines 1-25) (re. Claim 42,60) wherein the spatial relation information includes MPEG-7 MDS BaseRelation CS information; (Benitez-Column 12 Lines 1-25) (re. Claim 43,61)

wherein the spatial relation information includes MPEG-7 MDS SpatialRelation CS information. (Benitez-Column 12 Lines 1-25)

Lamkin disclosed (re. Claim 32) providing the desired content to the user terminal 'without receiving a request from the user terminal and without any need for searching for the determined content'. (Lamkin- Paragraph 203, Paragraph 240 searches for content using automated agent NCAA and stores the collection of content, Paragraph 518, based on a set of presentation rules or user profiles, Paragraph 35. Since Lamkin stores the presentation rules or user profiles Lamkin is able to collect content without a specific request from a user. Further since Lamkin stores the collection of content Lamkin is able to repeatedly provide the stored content without having to search.)

Lamkin and Benitez are analogous art because they present concepts and practices regarding the use of metadata to filter and render the multimedia content according to user preferences. At the time of the invention it would have been obvious to combine Benitez into Lamkin in order to enable flexible description schemes for describing multimedia data. (Benitez-Column 4 Lines 45-55)

Claim 50 (re. a method for generating package metadata) is rejected on the same basis as Claim 32.

Lamkin-Benitez disclosed (re. Claim 33,51) wherein the component metadata include: component description metadata for describing general particulars of a component; (Lamkin-Paragraph 383-Paragraph 385) image component metadata for describing image attributes of an image component; (Lamkin-Paragraph 383-Paragraph 385) video component metadata for describing video attributes of a video component; audio component metadata for describing audio attributes of an audio component; (Lamkin-Paragraph 383-Paragraph 385) and application program component metadata for describing application program attributes of an application program component. (Lamkin-Paragraph 178-184, Paragraph 383-Paragraph 385)

The motivation to combine described in Claim 32 applies to Claim 33,51.

Lamkin-Benitez disclosed (re. Claim 34,52) wherein the image attributes include a file size, a coding format, and a vertical/horizontal screen size. (Lamkin-Paragraph 137, Paragraph 163, 'screen size')

The motivation to combine described in Claim 32 applies to Claim 34,52.

Lamkin-Benitez disclosed (re. Claim 35,53) wherein the video attributes include coding format, and a vertical/horizontal screen size. (Lamkin-Paragraph 137, Paragraph

163, 'screen size')

The motivation to combine described in Claim 32 applies to Claim 35,53

Lamkin-Benitez disclosed (re. Claim 36,54) wherein the audio attributes include a file size, a coding format, and channel information. (Lamkin-Paragraph 137, Paragraph 163)

The motivation to combine described in Claim 32 applies to Claim 36,54.

Lamkin-Benitez disclosed (re. Claim 37,55) component metadata for describing general information on the components and information for each type of components (Lamkin-Paragraph 194, Paragraph 324-Paragraph 328) including file size (Lamkin-Paragraph 352, *'size of the file'*)

The motivation to combine described in Claim 32 applies to Claim 37,55.

Lamkin-Benitez disclosed (re. Claim 38,56) wherein the component metadata includes contents description metadata having a title, descriptive information (synopsis), and keywords of the contents. (Lamkin-Paragraph 194, Paragraph 324-Paragraph 328,

Paragraph 227, 'keywords and description')

The motivation to combine described in Claim 32 applies to Claim 38,56.

Lamkin-Benitez disclosed (re. Claim 39,57) wherein the component metadata includes application program attributes metadata having application program classification information of an application program. (Lamkin-Paragraph 194, Paragraph 324-Paragraph 328, 'ratings classification')

The motivation to combine described in Claim 32 applies to Claim 39,57.

Lamkin-Benitez disclosed (re. Claim 40,58) wherein the relation metadata include: interaction relation information for describing relative importance between the components; (Lamkin-Paragraph 376) temporal relation information for describing a temporal sequence of component consumption; (Lamkin-Paragraph 376) and spatial relation information for describing relative locations of the components on presentation based on a user interface. (Lamkin-Paragraph 376)

The motivation to combine described in Claim 32 applies to Claim 40,58.

Lamkin-Benitez disclosed (re. Claims 41,59) wherein the temporal relation information includes MPEG-7 MDS TemporalRelation CS information; (Benitez-Column

12 Lines 1-25) (re. Claim 42,60) wherein the spatial relation information includes MPEG-7 MDS BaseRelation CS information; (Benitez-Column 12 Lines 1-25) (re. Claim 43,61) wherein the spatial relation information includes MPEG-7 MDS SpatialRelation CS information. (Benitez-Column 12 Lines 1-25)

The motivation to combine described in Claim 32 applies to Claim 41,42,43.

Lamkin-Benitez disclosed (re. Claims 49,67) wherein the package metadata includes reference information including identification information for describing locations of the contents.(Lamkin-Paragraph 384)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 44-48, 62-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamkin (US Publication 2004/0220926) further in view of Benitez (US Patent 7185049) further in view of Errico (US Patent 7055168).

Lamkin-Benitez disclosed (re. Claim 44,62) wherein the targeting condition metadata include: user condition information for describing user environment characteristics; (Lamkin-Paragraph 165-Paragraph 167)

terminal condition information for describing terminal environment characteristics; (Lamkin-Paragraph 165-Paragraph 167)

and natural environment information for describing natural environment characteristics such as the location of a terminal. (Lamkin-Paragraph 113, Paragraph 138)

While Lamkin-Benitez substantially disclosed the claimed invention Lamkin-Benitez did not disclose (re. 44,62) network condition information for describing network environment characteristics connected with the terminal.

Errico disclosed (re. 44,62) wherein the network environment characteristics include a bandwidth of a network connected with the terminal, a delay characteristic and an error characteristic. (Errico-Column 37 Lines 1-15)

Lamkin, Benitez and Errico are analogous art because they present concepts and practices regarding the use of metadata to filter and render the multimedia content according to user preferences. At the time of the invention it would have been obvious to combine Errico into Lamkin in order to enable users to maintain/specify multiple separate user preference descriptions corresponding to, for example, different locations

(e.g., at home, at the office, away from home, stationary versus traveling in a vehicle), different situations.

Lamkin-Benitez-Errico disclosed (re. Claim 45,63) wherein the user environment characteristics include a user preference, (Lamkin-Paragraph 20) user history, (Lamkin-Paragraph 325) surge information and visual/auditory difficulty information. (Lamkin-Paragraph 165-Paragraph 167)

Lamkin-Benitez-Errico disclosed (re. Claim 46,64) wherein the terminal environment characteristics include codec capability, device attributes, and input/output characteristic information. (Lamkin-Paragraph 165-Paragraph 167)

Lamkin-Benitez-Errico disclosed (re. Claim 47,65) wherein the network condition information includes network capability information. (Errico-Column 37 Lines 1-15)

Lamkin-Benitez-Errico disclosed (re. Claim 48,66) wherein the natural environment characteristics include characteristics of audio/visual aspects, location information, and usage time of a digital item. (Lamkin-Paragraph 113, Paragraph 138)

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. B./ Examiner, Art Unit 2444

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444

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